

STATE OF MINNESOTA
BOARD OF ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE
AND INTERIOR DESIGN

MAY 05 2010

In the matter of Kris Alan Pickett
PROFESSIONAL ENGINEER
License Number 21403

STIPULATION AND ORDER

Board File No. 2010-0009

TO: Mr. Kris Alan Pickett
808 8th Street
Greeley, Colorado 80631

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2008) and Minnesota Statutes section 326.111 (2008) to review complaints against architects, professional engineers, land surveyors, landscape architects, geoscientists, and certified interior designers, and to take disciplinary action whenever appropriate.

The Board received information concerning Kris Alan Pickett ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Stipulation and Order.

STIPULATION

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. The Respondent has held a license to practice professional engineering from the Board since June 24, 1991. Respondent is subject to the jurisdiction

of the Board with respect to the matters referred to in this Stipulation.

2. Facts. This Stipulation is based upon the following facts:

a. Respondent was first licensed to practice professional engineering in the State of Minnesota on June 24, 1991.

b. Respondent's license to practice professional engineering in the State of Minnesota is current, with an expiration date of June 30, 2010.

c. Respondent affirmed the 2010 renewal application on June 24, 2008 at 1:01 PM. In order to continue the online renewal process, it asks the licensee, "Since July 1, 2006, have you had a license disciplined, denied, surrendered, suspended or revoked?" There is a button to check 'yes' or 'no' to this question. Directly below this question it asks the licensee, "I swear or affirm that I have read the foregoing renewal application and continuing education reporting screens and that the statements are true and complete." The next step to complete is a box to click that states, "I accept." Additionally it states, "(You must check this box to continue)." Respondent clicked on the box to continue as his renewal application was renewed on June 24, 2008. If the Respondent selected 'yes' to the question, "Since July 1, 2006, have you had a license disciplined, denied, surrendered, suspended or revoked," the system would not have let him continue and would have given him the error message: "You cannot renewal your license online if you had a license disciplined, denied, surrendered, suspended or revoked. Please contact Lynette DuFresne at 651-757-1510 for assistance."

d. Respondent was issued a Stipulation and Final Agency Order by the State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors, State of Colorado, on November 20, 2007. The Findings of Fact state: "11. Respondent failed to meet the generally accepted standards of the practice of engineering with regard to the opinion he provided on a grading and drainage plan for a residential property in Severance, Colorado." A true and correct copy of the Stipulation and Final Agency Order issued by the State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors, State of Colorado, on November 20, 2007 is attached as Exhibit A.

e. In a letter dated September 29, 2009 to Lynette DuFresne, Board Investigator, Respondent states: "Apparently, I misread the question thinking it was asking if my license had been denied, suspended, surrendered, or revoked. There is no question I entered into a Stipulated Order with the State of Colorado, and I have no reason to hide or deny that fact." A true and correct copy of the September 29, 2009 letter is attached as Exhibit B.

f. In the same letter dated September 29, 2009, Respondent states: "Your letter has prompted me to consider the condition of my license in the State of Minnesota. I have had no reason or opportunity to practice in your great state for over 15 years, and since engineering career is nearing its' end, maybe the best course of action is for me to retire my license." A true and correct copy of the September 29, 2009 letter is attached as Exhibit B.

3. Violations. Respondent admits that the facts specified in paragraphs 2 (c) and 2 (d) above constitute violations of Minnesota Statutes section 326.111, subdivisions 4 (a) (1) and (5) (2008), and Minnesota Rules 1805.0200, subparts 1, 2 and 4 (c) (2009) and are sufficient grounds for the action specified below.

4. Enforcement Action. Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

✓ a. Reprimand. Respondent is reprimanded for the foregoing conduct.

✓ b. Surrender of Professional Engineering License. Respondent's professional engineering license shall be surrendered. Upon receipt of the Board's Order approving this Stipulation, Respondent shall deliver his professional engineering license to the Board office within five (5) business days. Respondent shall not reapply for licensure in this State as a professional engineer.

✓ c. Prohibitions. After the Respondent has surrendered his professional engineering license, Respondent shall not:

(i) Perform, or offer to perform, any activities in the State of Minnesota requiring licensure under Minnesota Statutes sections 326.02 - 326.15 (2008); nor

(ii) Use the title of "Professional Engineer/PE" in connection with his name, or solicit or contract to furnish work requiring licensure within the terms of Minnesota Statutes sections 326.02 - 326.15 (2008), or otherwise hold himself out as a professional engineer in the State of Minnesota.

✓ 5. Additional Discipline for Violations of Order. If Respondent violates this Stipulation and Order, Minnesota Statutes Chapter 326 (2008), or Minnesota Rules Chapter 1800 (2009) or Minnesota Rules Chapter 1805 (2009), the Board may impose additional discipline pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least thirty days prior to the hearing, the Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Within fourteen days after the notice is mailed, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. At the hearing before the Board, the Complaint Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including imposition of a civil penalty for any violation of this Stipulation and Order.

6. Waiver of Respondent's Rights. For the purpose of this Stipulation, Respondent waives all procedures and proceedings before the Board to which

Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent, to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2008). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order containing the enforcement action specified in paragraph 4 herein. Respondent waives the right to any judicial review of the Order by appeal, writ of certiorari, or otherwise.

7. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this Stipulation and Order or a lesser remedy than specified herein, this Stipulation and Order shall be null and void and shall not be used for any purpose by either party hereto. If this Stipulation is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2008), Respondent agrees not to object to the Board's initiation of the proceedings and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Stipulation and the record.

8. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Stipulation and Order and which is not directly related to the specific facts and circumstances set forth herein.

9. Record. The Stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Stipulation.

10. Data Classification. Under the Minnesota Government Data Practices Act, this Stipulation and Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2008). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2008). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practice of engineering.

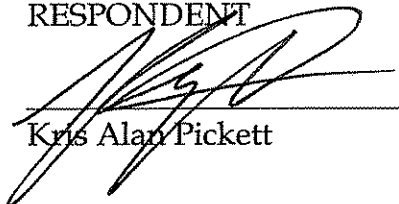
11. Entire Agreement. Respondent has read, understood, and agreed to this Stipulation and is freely and voluntarily signing it. The Stipulation contains the entire agreement between the parties hereto relating to the allegations referenced herein. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

12. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

13. Service. If approved by the Board, a copy of this Stipulation and Order shall be served personally or by first class mail on Respondent. The Order shall be

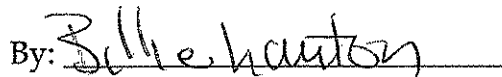
effective and deemed issued when it is signed by the Chair of the Board.

RESPONDENT


Kris Alan Pickett

Dated: April 22, 2010

COMPLAINT COMMITTEE

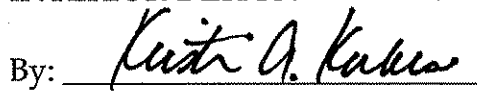
By: 
Billie Lawton, Public Member,
Committee Chair

Dated: 5-6-10, 2010

ORDER

Upon consideration of the foregoing Stipulation and based upon all the files, records and proceedings herein, all terms of the Stipulation are approved and hereby issued as an Order of this Board on this the 6th day of May, 2010.

MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE AND
INTERIOR DESIGN

By: 
Kristine A. Kubes, J. D.
Board Chair

BEFORE THE STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL
ENGINEERS, AND PROFESSIONAL LAND SURVEYORS

STATE OF COLORADO

Case No. 2007-003208

(COPY)

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING AGAINST THE LICENSE TO
PRACTICE AS A PROFESSIONAL ENGINEER OF KRIS A. PICKETT, PE NO. 27783,

Respondent.

The State Board of Licensure for Architects, Professional Engineers, and Professional
Land Surveyors for the State of Colorado ("Board") and Kris A. Pickett ("Respondent")
hereby enter into the following Stipulation and Final Agency Order ("Stipulation"), as follows:

JURISDICTION

The Board finds, and Respondent agrees, that:

1. Respondent was licensed as a professional engineer in the State of Colorado
with license number 27783 on July 22, 1991, and has been so licensed from that date to the
present.
2. The factual issues which are the subject of this Stipulation involve
Respondent's practice of engineering.
3. The Board has jurisdiction over Respondent, Respondent's license to practice
engineering, and the subject matter of this Stipulation.

APPLICABLE LEGAL STANDARDS

4. At all relevant times, Section 12-25-108 of the Colorado Revised Statutes has
permitted the Board to take disciplinary action against Respondent for violating the laws
governing the practice of professional engineering:

12-25-108. Disciplinary actions – grounds for discipline. (1) The board has the
power to deny, suspend, revoke, or refuse to renew the license and certificate of licensure or
enrollment of, limit the scope of practice of, or place on probation, any professional engineer
or engineer-intern who is found guilty of:

EXHIBIT A

(b) Failing to meet the generally accepted standards of engineering practice whether through act or omission.

...

(2)(a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the professional engineer or engineer-intern.

(b) When a letter of admonition is sent by the board, by certified mail, to a professional engineer or engineer-intern, the professional engineer or engineer-intern shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings. ...

FINDINGS OF FACT

The Board finds, and Respondent admits, that:

5. Respondent was licensed as a professional engineer in the State of Colorado with license number 27783 on July 22, 1991, and has been so licensed from that date to the present.

6. The Board has jurisdiction over Respondent, Respondent's license to practice engineering, and the subject matter of this Stipulation.

7. Respondent has been offered the terms of this Stipulation in settlement of the charges arising from the facts set forth herein, and Respondent has been provided with a written copy of this Stipulation for review.

8. Respondent reviewed a grading plan and a survey of a residential property located in severance, Colorado.

9. Upon the review of the grading plan and the survey, Respondent issued an opinion that the surveyed elevations reflect that the grading was done in substantial compliance with the intent of the grading plan.

10. Respondent visited the property and visually observed the lot grading from the surrounding streets and took photographs of the drainage patterns. Respondent confirmed that the visual inspection supported the information obtained from the grading certification that there appeared to be appropriate positive drainage away from the structure.

11. Respondent failed to meet the generally accepted standards of the practice of engineering with regard to the opinion he provided on a grading and drainage plan for a residential property in Severance, Colorado.

12. Respondent's failure to meet the generally accepted standards of the practice of the practice of engineering constitutes grounds for disciplinary action against Respondent pursuant to Section 12-25-108 (1) (b), C.R.S.

CONCLUSIONS OF LAW

The Board finds, and Respondent agrees, that:

13. The Board has jurisdiction over Respondent, Respondent's license to practice engineering in Colorado, and the subject matter of this Stipulation.

14. Respondent's conduct, as referenced in the above Findings of Fact, constitutes Respondent's failure to meet the generally accepted standards of the practice of engineering.

15. Respondent's failure to meet the generally accepted standards of the practice of engineering constitutes grounds for disciplinary action against Respondent pursuant to Section 12-25-108, C.R.S.

ORDER

The Board orders, and Respondent agrees to, the following:

16. **LETTER OF ADMONITION.** By signing this Stipulation, Respondent agrees to accept a Letter of Admonition from the Board, admonishing Respondent for failing to meet the generally accepted standards of the practice of engineering.

17. **FINE.** Respondent agrees to pay a fine in the amount of five hundred dollars (\$500.00), payable to the State of Colorado, as authorized by Section 12-25-108, C.R.S. Respondent shall submit the payment in one lump sum with an executed copy of this Stipulation.

18. **PROBATION.** Respondent's license to practice as a professional engineer in the State of Colorado is placed on probation until Respondent completes the following terms of probation. The probationary period commences on the effective date of this Stipulation and ends upon Respondent's completion of the following terms of probation. Respondent understands and agrees that a failure to meet any of the following terms of probation may result in additional disciplinary charges for violating a Board Order.

a. **Probationary License.** Within thirty (30) days of the effective date of this Stipulation, Respondent shall submit his license and wallet card to the Board's

Program Director for replacement of his current card and license with a probationary license and card.

b. Continuing Education in Advanced Engineering Ethics. Within one (1) year of the effective date of this Stipulation, Respondent shall enroll in, and successfully complete, an advanced engineering ethics course at the Murdough Center for Engineering Professionalism at the College of Engineering, Texas Tech University or a previously Board-approved alternative. Approval of an alternative course is granted at the sole discretion of the Board and a request for approval of a program after enrollment is not guaranteed. Respondent shall, within sixty (60) days of completion of the course, submit proof of his successful completion of such course to the Board for its review and approval. Such proof shall be in the form of a Certificate of Completion, a Continuing Education Certificate, or another written form deemed acceptable by the Board. Successful completion is defined as the achievement of a grade of "C" or above, or the equivalent.

c. Compliance with Legal Requirements. Respondent shall obey all of the terms of this Stipulation and comply with Colorado statutes, regulations, and rules of conduct governing the practice of engineering.

19. Respondent consents to this Stipulation with the Board in lieu of Board action pursuant to Section 12-25-109, C.R.S.

20. In the event Respondent violates any provision of Title 12, Article 25, Part 1, C.R.S., or any Board rule in the future, this Stipulation may be used as evidence of a prior violation.

OTHER MATTERS

21. The intent and purpose of this Stipulation is to provide for the complete settlement of the allegations, facts, and issues expressly raised or addressed herein. Any other allegations, facts, and issues not specifically and expressly raised or addressed herein have not been considered by the parties and are not made a part of this Stipulation.

22. Respondent has had adequate opportunity to be represented by counsel in this matter for purposes of negotiating the terms of this Stipulation. Respondent enters into this Stipulation freely and voluntarily, absent any duress or coercion by the Board or the Colorado Office of the Attorney General.

23. Respondent understands that he has the right to a formal hearing pursuant to Section 24-4-105, C.R.S., with respect to the facts admitted in the Findings of Fact. Respondent agrees that he has had an opportunity to consult with legal counsel, and has been given a copy of this Stipulation for his consideration and for consideration by any legal counsel he may choose. Respondent agrees that he is knowingly and intelligently waiving his right to contest or appeal this Stipulation. Respondent understands and agrees that, by

waiving his right to a hearing, he is also waiving his right to have the Board prove the facts contained within the Findings of Fact at a hearing, waiving his right to present a defense by oral and documentary evidence at the hearing, and waiving his right to cross-examine witnesses who would testify on behalf of the Board at the hearing.

24. Invalidation of any portion of this Stipulation by judgment or court order shall in no way affect any other provision of the remaining portions of this Stipulation, which provisions shall remain in full force and effect.

25. Upon execution by the Board, this Stipulation shall become effective and shall be a permanent public record in the possession of the Board.

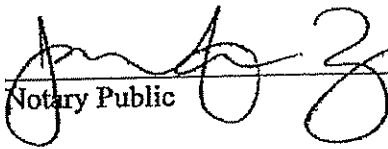
26. This Stipulation between Respondent and the Board is entered into by Respondent voluntarily and without coercion, after an opportunity to consult with counsel.

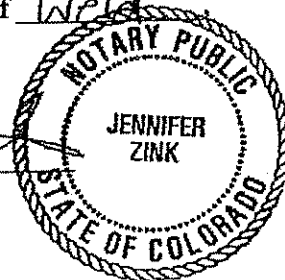
27. This Stipulation shall become an Order of the Board when accepted by the Board and signed by an authorized Board representative.

AGREED TO AND ACCEPTED BY:
RESPONDENT


KRISA A. PICKETT

Subscribed to and sworn to by Krisa A. Pickett before me in the County of Weld
State of Colorado, this 8th day of November 2007


Notary Public



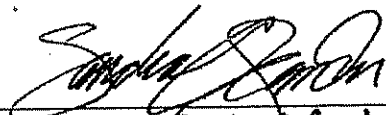
My Commission expires 8/8/2010

AGREED TO, EXECUTED, AND ORDERED BY:


COLORADO BOARD OF LICENSURE FOR
ARCHITECTS, PROFESSIONAL ENGINEERS,
AND PROFESSIONAL LAND SURVEYORS

Attest:

By:


BOARD CHAIR, Sandra E. Scanlon, PE
1560 Broadway, Suite 1350
Denver, Colorado 80202
Telephone: 303-894-7788

By:


CHARLES H. ADAMS
Program Director


EFFECTIVE DATE:

November 20, 2007

CERTIFICATE OF MAILING

This is to certify that I have duly mailed the foregoing STIPULATION AND FINAL AGENCY ORDER and THE STIPULATED LETTER OF ADMONITION upon Respondent by depositing copies of same in the United States mail, first class postage prepaid, at Denver, Colorado, this 25th day of October 2007, addressed as follows:

Kris A. Pickett
Pickett Engineering, Inc.
808 8th St.
Greeley, CO 80631



Ofelia Duran

STATE OF COLORADO

STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

Charles H. Adams, Program Director

1560 Broadway, Suite 1500
Denver, Colorado 80202
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TTY: Dial 711 for Relay Colorado
www.dora.state.co.us/aes

Department of Regulatory Agencies
D. Rico Munn, Executive Director

Division of Registrations
Rosemary McCool, Director

Business and Technical Section
Angeline Kinnaird Linn, Section Director



Bill Ritter, Jr.
Governor

October 25, 2007

Mr. Kris A. Pickett

RE: LETTER OF ADMONITION WITH FINE

Dear Mr. Pickett:

I represent the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors ("Board"). The Board reviewed case number 2007-003208, in which it was alleged that you failed to meet the generally accepted standards of the practice of engineering with regard to the opinion you provided on a grading and drainage plan for a residential property in Weld County. The Board determined that the facts disclosed thus far do not currently warrant instituting formal disciplinary proceedings against your license to practice engineering. However, pursuant to its authority under Section 12-25-108(2), C.R.S., on July 13, 2007, the Board ordered that this Letter of Admonition be issued to you.

The Board finds that the facts that were revealed suggest that more likely than not you failed to meet the generally accepted standards of the practice of engineering with regard to the opinion you provided on a grading and drainage plan for a residential property in Weld County, which constitutes grounds for discipline pursuant to C.R.S. Section 12-25-108(1)(b). On the basis of this finding, the Board hereby admonishes you and orders you to pay a fine in the amount of five hundred dollars (\$500.00).

Please remit payment and return this letter to me by November 8, 2007. Failure to timely comply may result in a referral of your case to the Office of the Attorney General for initiation of formal administrative law proceedings.

Please note that this is a disciplinary action that will be reflected in the Board's records and is information that is available to the public. Because the terms of this letter were negotiated, you agree to waive your right to contest this admonishment and fine as granted under C.R.S. 12-25-108(2).

FOR THE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS


CHARLES H. ADAMS
Program Director

ACCEPTED AND AGREED TO BY:


KRIS A. PICKETT

RECEIVED

NOV 09 2007

OI/ESP

SEP 30 2009

September 29, 2009

Kris A. Pickett
6308 W. 26th Street
Greeley, Co 80634
(970) 590-6061

Lynette DuFresne
Investigator
Minnesota Board of AELSLAGID
85 East 7th Place, Suite 160
St. Paul, MN 55101

RE: File No. 2010-0009

Dear Ms. DuFresne:

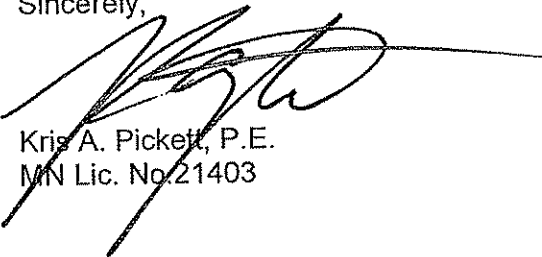
First, I want to offer my apologies for any effort that has been required based upon my actions, or lack thereof. It certainly was not intentional that I answered the question on the renewal form improperly. Apparently, I misread the question thinking it was asking if my license had been denied, suspended, surrendered, or revoked. There is no question I entered into a Stipulated Order with the State of Colorado, and I have no reason to hide or deny that fact.

I understand that our profession must regulate itself and think that the Board should take whatever actions are necessary to protect the integrity of our profession.

Your letter has prompted me to consider the condition of my license in the State of Minnesota. I have had no reason or opportunity to practice in your great state for over 15 years, and since engineering career is nearing its' end, maybe the best course of action is for me to retire my license.

Please give me your thoughts.

Sincerely,



Kris A. Pickett, P.E.
MN Lic. No. 21403

EXHIBIT B

AFFIDAVIT OF SERVICE BY MAIL

RE: In the matter of Kris Alan Pickett,
PROFESSIONAL ENGINEER
License Number 21403

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lynette DuFresne, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on this the 7th day of MAY, 2010, she served the attached **Stipulation and Order**, by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class and certified postage prepaid, and addressed to:

Mr. Kris Alan Pickett
808 8th Street
Greeley, Colorado 80631

CERTIFIED MAIL
Return Receipt Requested
7003 3110 0004 8527 5866


Lynette DuFresne

Subscribed and sworn to before me on
this the 7th day of May, 2010.


(Notary Public)

